

### **REMARKS/ARGUMENTS**

This Amendment is in response to the Office Action mailed November 24, 2006. Claims 1-21 were pending in the present application. Claims 2, 4, 6, 8, 14, 16, 18, and 20 contain allowable subject matter. This Amendment amends claims 1, 7-8, 11, and 15-20, and cancels claims 9-10, leaving pending in the application claims 1-8 and 11-21. Reconsideration of the rejected claims is respectfully requested.

#### **I. Rejection under §101**

Claims 1-21 are rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. In particular, these claims are rejected as including a signal in the broadest interpretation, which is indicated to be non-statutory subject matter as including a physical characteristic of a form of energy (OA p. 2). Claims 9 and 10 have been canceled. It is respectfully submitted that the remaining claims recite a switching method for use in a VLAN, a computer readable media stored with computer readable data instructions, a network node switching device, a switch for forwarding a packet, or a method of transmitting information, and as such recite statutory subject matter. While signals may be involved in the actual operation of elements of these claims, the claims do not attempt to cover the signals themselves and as such should not be rejected as reciting non-statutory subject matter. Applicants therefore respectfully request that the rejection with respect to these claims be withdrawn.

#### **II. Rejection under 35 U.S.C. §112**

Claims 7, 8, and 15-20 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, these claims are rejected as being unclear for use of the word "having" in the preamble (OA p. 3). Although Applicants do not necessarily agree with the rejections, Applicants appreciate the Examiner's helpful suggestion and have amended these claims to instead recite the term "stored with", in

order to advance prosecution Applicants therefore respectfully submit that the claims are sufficiently definite and request that the rejection be withdrawn.

### III. Rejection under 35 U.S.C. §103

Claims 1, 3, 5, 7, 11-13, 15, 17, and 19 are rejected under 35 U.S.C. §103(a) as being obvious over *Nagamine* (US 7,065,040) in view of *Maeno* (US 2002/0156919). Applicants respectfully submit that these references do not teach or suggest each element of these claims. For example, Applicants' claim 1 as amended recites a switching method, **for use in a VLAN (virtual local area network)** including at least one WDM optical path, comprising:

- deriving a VLAN ID from a received packet;
- deriving a wavelength ID value related to a carrier wavelength of the received packet;
- and
- using at least both the VLAN ID value and the wavelength ID value for making an optical VLAN forwarding decision for the packet to provide a VLAN identifying capacity greater than that provided solely by a VLAN ID carried by a frame**

(*emphasis added*). Such limitations are neither taught nor suggested by these references.

For example, *Nagamine* teaches an improved ring switching method and apparatus, such as may determine a bypass route at the time of detection of a failure (col. 2, lines 4-12). *Nagamine* does not teach or suggest use of a VLAN, and does not teach or suggest the use of a VLAN ID. Claim 1 requires use of a VLAN ID and wavelength ID value in a VLAN, and there is no teaching or suggestion of such elements in *Nagamine*, and no evidence set forth as to how such information could be derived from, or obvious in light of, *Nagamine*. As such, claim 1 as amended cannot be rendered obvious by *Nagamine*.

*Maeno* does not make up for the deficiencies in *Nagamine* with respect to Applicants' claim 1 as amended. *Maeno* teaches a transparent communications network with a sub-network of network nodes each calculating a plurality of virtual links from the physical links (paragraphs [0005]-[0006]). *Maeno* does not teach or suggest use of a VLAN and/or a VLAN ID. Claim 1 requires use of a VLAN ID and wavelength ID value in a VLAN, and there is no teaching or suggestion of such elements in *Maeno*, or any

evidence indicating how such information could be derived from, or obvious in light of, *Maeno*, either alone or in combination with *Nagamine*. As such, claim 1 as amended cannot be rendered obvious by *Nagamine* and *Maeno*. Claims 1-8 and 11-20 each recite limitations that similarly are not rendered obvious by these references, for reasons including those discussed above.

Applicants' claim 21 also is rejected as being obvious over *Nagamine*. Claim 21 recites the limitations of receiving two VLAN tagged frames with both frames having the same VLAN ID, and transmitting the two frames with different wavelengths over an optical fiber. It is asserted on page 8 of the Office Action that, although *Nagamine* does not disclose two VLAN tagged frames having the same VLAN ID, it would have been obvious since the system transmits and receives a plurality of virtual identifiers that the system may receive the same virtual ID. It is respectfully submitted that *Nagamine* does not teach or suggest transmitting and receiving a plurality of virtual identifiers, as well as first and second VLAN tagged frames both having the same VLAN ID. Further, *Nagamine* fails to teach or suggest two VLAN tagged frames with the same VLAN ID being transmitted with different wavelengths over an optical fiber as recited in Applicants' claim 21. As such, *Nagamine* cannot render obvious Applicants' claim 21.

Applicants therefore respectfully request that the rejections with respect to claims 1-8 and 11-21 be withdrawn.

#### **IV. Amendment to the Claims**

Unless otherwise specified, amendments to the claims are made for purposes of clarity, and are not intended to alter the scope of the claims or limit any equivalents thereof. The amendments are supported by the specification and do not add new matter.

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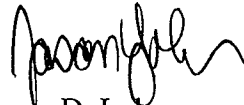
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**CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 925-472-5000.

Respectfully submitted,



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